

Message Text

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C O N F I D E N T I A L BOGOTA 6801

E.O. 11652: GDS

TAGS: EFIN, PFOR, CO

SUBJECT: BANCO DE BOGOTA'S OPERATIONS IN THE U.S.

REF: BOGOTA 6640

1. SUMMARY BANCO DE BOGOTA CONFIRMED TO CHARGE ON JULY 2 THAT NEW YORK STATE BANKING BOARD HAS DECIDED THAT BANK HAS UNTIL JANUARY 5, 1977, TO CONVERT ITS BRANCH TO AN AGENCY OR CEASE OPERATIONS IN THE STATE. DECISION WAS BASED ON RECIPROCITY FEATURE OF NEW YORK LAW AND IS DIRECTLY RELATED TO BANK COLOMBIANIZATION LAW HERE. BANCO DE BOGOTA OFFICIALS WILL SEEK TO APPEAL THE DECISION ARGUING, AMONG OTHER THINGS, THAT THE NEW YORK LAW SHOULD APPLY TO NEW BANKING VENTURES RATHER THAN TO EXISTING ONES. END SUMMARY.

2. IN CALL ON CHARGE ON JULY 2, BANCO DE BOGOTA PRESIDENT JORGE MEJIA SALAZAR CONFIRMED THAT NEW YORK STATE BANKING BOARD HAD GIVEN THE BANK UNTIL JANUARY 5, 1977, TO CONVERT ITS BRANCH TO AN AGENCY OR CEASE OPERATIONS IN THE STATE. ACCORDING TO MEJIA SALAZAR, TEXT OF BOARD'S DECISION IS AS FOLLOWS: QUOTE UNANIMOUS WRITTEN CONSENT PURSUANT TO SECTION 13(4) OF THE BANKING LAW. BANCO DE BOGOTA, A BANK ORGANIZED UNDER THE LAWS OF COLOMBIA, WAS GRANTED A LICENSE PURSUANT TO SECTION 26 OF THE BANKING LAW TO OPERATE A BRANCH IN NEW YORK ON
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JULY 5, 1974, AND HAS OBTAINED ANNUAL RENEWALS OF ITS

LICENSE, PURSUANT TO THE PROVISIONS OF SECTION 26 OF THE BANKING LAW, SINCE SUCH DATE. ON DECEMBER 3, 1975, THE BANKING BOARD AUTHORIZED THE SUPERINTENDENT TO RENEW THE BRANCH'S LICENSE FOR A ONE-YEAR PERIOD UPON EXPIRATION OF THE EXISTING LICENSE. SINCE THEN, THE BANKING DEPARTMENT HAS LEARNED THAT LEGISLATION RECENTLY ENACTED IN COLOMBIA PROHIBITS FOREIGN BANKS FROM MAINTAINING EITHER A BRANCH OR AGENCY OR OWNING ALL THE SHARES OF A BANKING ORGANIZATION ORGANIZED UNDER THE LAWS OF COLOMBIA.

RECIPROCITY IS ONE OF THE STATUTORY CONDITIONS WHICH MUST BE MET BEFORE A FOREIGN BANKING CORPORATION MAY BE LICENSED TO MAINTAIN A BRANCH OR TO ENGAGE IN THE BUSINESS OF RECEIVING DEPOSITS IN NEW YORK. SINCE COLOMBIA'S LAWS NO LONGER PROVIDE FOR SUCH RECIPROCITY, BANCO DE BOGOTA MUST EITHER CLOSE ITS NEW YORK OPERATIONS OR CONVERT ITS NEW YORK BRANCH TO AN AGENCY. TO REQUIRE BANCO DE BOGOTA TO CEASE OPERATIONS AS OF JULY 5, 1976, WOULD CAUSE UNDUE HARDSHIP TO THE CUSTOMERS OF BANCO DE BOGOTA AND UNDERMINE PUBLIC CONFIDENCE IN BANKING. FOR THIS REASON, THE FOLLOWING PERSONS, EACH OF WHOM IS A MEMBER OF THE BANKING BOARD, DO HEREBY FIND THAT UNUSUAL AND EXTRAORDINARY CIRCUMSTANCES EXIST, THAT SUCH CIRCUMSTANCES MAKE A VARIATION FROM THE REQUIREMENTS OF SECTIONS 26 AND 202-A OF THE BANKING LAW NECESSARY AND THAT SUCH VARIATION WILL BE IN HARMONY WITH THE SPIRIT OF THE LAW. PURSUANT TO THEIR AUTHORITY UNDER SECTION 14 (1) (Q) OF THE BANKING LAW, THE FOLLOWING DO HEREBY APPROVE AND GRANT A VARIATION FROM SUCH PROVISIONS AND DO HEREBY AUTHORIZE THE SUPERINTENDENT TO ISSUE BANCO DE BOGOTA A LICENSE TO OPERATE A BRANCH IN NEW YORK UNTIL SUCH TIME AS (I) BANCO DE BOGOTA SHALL HAVE APPLIED FOR A LICENSE TO OPERATE AS AN AGENCY IN NEW YORK AND SUCH APPLICATION SHALL HAVE BEEN EITHER APPROVED OR DISAPPROVED IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE BANKING LAW OR (II) JANUARY 5, 1977, WHICH SHALL FIRST OCCUR. END QUOTE.

3. MEJIA SALAZAR STATED THAT THE BOARD'S DECISION HAD COME AS A COMPLETE SUPRISE AND THAT THE BANCO DE BOGOTA
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HAD NOT BEEN GIVEN AN OPPORTUNITY TO APPEAR BEFORE THE BOARD TO ARGUE ITS CASE. HE SAID THAT HE UNDERSTOOD THE RECIPROCITY FEATURE OF NEW YORK LAW, BUT THAT HE BELIEVED IT SHOULD APPLY TO NEW BANKING VENTURES RATHER THAN TO EXISTING ONES. WITH REGARD TO THE BANK COLOMBIANIZATION LAW, HE STATED (CORRECTLY) THAT THE BANCO DE BOGOTA HAD BEEN AGAINST IT FROM THE BEGINNING AND THAT HE PERSONALLY HAD APPEARED BEFORE THE CONGRESS

ON TWO OCCASIONS TO ARGUE AGAINST ITS PASSAGE.

4. MEJIA SALAZAR SAID THAT THE BANCO DE BOGOTA WAS THE ONLY PRIVATE LATIN AMERICAN BANK WITH A BRANCH IN NEW YORK AND THAT, WHILE IT IS NOT A LARGE OPERATION, FROM THE STANDPOINT OF EXPERIENCE AND PRESTIGE THE OFFICE IS IMPORTANT TO COLOMBIA. HE PLANNED TO TRAVEL TO NEW YORK ON JULY 5 IN ORDER TO INVESTIGATE THE POSSIBILITY OF APPEALING THE BOARD'S DECISION OR, AT THE VERY LEAST, SEEKING A LONGER PERIOD IN WHICH TO PHASE OUT THE BRANCH'S OPERATIONS.

5. THE NEW YORK RULING HAS NOT YET BECOME PUBLIC KNOWLEDGE HERE. MEJIA SALAZAR SAID THAT HE HAD NOT INFORMED THE GOVERNMENT OR THE BANKING COMMUNITY OF THE MATTER AND THAT HE HOPED TO KEEP IT QUIET FOR THE TIME BEING. HE DID NOT REQUEST OUR INTERVENTION ON BEHALF OF THE BANCO DE BOGOTA, NOTING THAT THE EMBASSY HAD NOT INTERVENED ON BEHALF OF THE U.S. BANKS HERE, BUT HE DID SAY THAT HE WOULD BE GRATEFUL FOR ANY ASSISTANCE WE MIGHT BE ABLE TO PROVIDE.
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